

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RAUL BAUTISTA,

Petitioner,

v.

WARDEN, F.C.I. MENDOTA,

Respondent.

No. 1:23-cv-01122-SKO (HC)

ORDER DIRECTING RESPONDENT TO
PROVIDE DOCUMENTS

[14-DAY DEADLINE]

Petitioner is a federal prisoner proceeding *pro se* and *in forma pauperis* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. On July 28, 2023, Petitioner filed the instant habeas petition. On October 31, 2023, Respondent filed a motion to dismiss the petition. The Court has reviewed the pleadings and finds that additional documentation is necessary.

It is Petitioner's contention that the Bureau of Prisons ("BOP") is excluding him from the application of First Step Act credits against his sentence solely because he has an immigration detainer lodged against him. Respondent counters that Petitioner is subject to a final order of removal and therefore ineligible under statute for application of First Step Act credits. See 18 U.S.C. § 3632(d)(4)(E). Petitioner alleges that the BOP is using a document as proof of a final order of removal, but the document contains false information and that he is only subject to a detainer. Petitioner claims that the BOP is representing that he is subject to a final order of removal where no formal final order of removal has been issued.

1 The Court has reviewed the documents lodged by Respondent, and in particular,
2 Respondent's citation to the record indicating Petitioner is subject to a final order of removal.
3 (Doc. 10 at 4, citing Appendix at 16.) The reference is to a copy of a document entitled
4 "Immigration Detainer – Notice of Action" wherein a box is checked indicating a final order of
5 removal has been issued. From this information alone, however, the Court cannot verify that
6 Petitioner is subject to a final order of removal. The detainer references the existence of a final
7 order of removal. Thus, Respondent shall file a copy of the actual final order of removal or
8 explain why a copy cannot be furnished.

9 **ORDER**

10 Accordingly, IT IS HEREBY ORDERED that Respondent shall file a copy of the final
11 order of removal within fourteen (14) days of the date of service of this Order.

12
13 IT IS SO ORDERED.

14 Dated: **December 12, 2023**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE